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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,016	04/04/2000	Gudrun Vandeginste	PHN 17,395	5698
24737	7590	12/22/2003	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			NATNAEL, PAULOS M	
			ART UNIT	PAPER NUMBER
			2614	
			DATE MAILED: 12/22/2003	

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/543,016

Applicant(s)

VANDEGINSTE, GUDRUN

Examiner

Paulos M. Natnael

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-20

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
MICHAEL H. LEE  
PRIMARY EXAMINER

The arguments are unpersuasive. Applicant apparently is arguing something that is not found in the claims when applicant argues that Miller does not utilize "user command or input" because Miller's system operates automatically. If applicant would like to amend the claims to include or add such a limitation, applicant should do so in a continuation practice. See further response below.

#### Applicant's Arguments

a) Miller is directed to an apparatus that automatically adjusts the video signal parameters of "luminance" and "contrast" as a function of "ambient" and "surround" luminance....Miller does not mention using user inputs of the type disclosed in the applicant's invention and has no element that is analogous to the Applicant's user "user command unit 112."

b) There is no suggestion in the Wagner reference to combine the GUI interface of the Wagner device with the Miller device....The fact that the Miller reference discloses a display device that may be capable of supporting a GUI interface does not suggest using a GUI for parameter adjustment in the Miller display device.

c) Wagner never mentions that the sliding bar is used to indicate how the brightness level of an image has been altered or adjusted...The Examiner stated that it is well known in the art that the sliding bar indicates the change that has been made to a parameter such as contrast or brightness levels of a display. The Applicant submits that the Examiner has cited no authority for this assertion. The teaching that a sliding bar always automatically reflects changes in a parameter after the parameter has been changed is not shown or suggested in the cited prior art.

d) The Miller reference teaches away from the concept of using user input and the Wagner reference does not mention using current ambient factors.

#### Examiner's Response

a) Nowhere do claims 1 and 5 recite "user command unit 112" nor do the said claims recite "manual" operation as opposed to Miller's "automatic" operation. Therefore, Applicant is arguing something that is not found in the claims; and Miller is NOT teaching away from the claimed invention and is a proper reference.

b) The Miller reference teaches automatic luminance and contrast adjustment for display device so that the brightness and contrast perception of the display image remains constant. (See Abstract) Wagner teaches an anti-eye strain apparatus and method for display devices, which apparatus and method automatically adjust the brightness of a display to cause the muscles of the eyes of the user to adjust and refocus such that eye fatigue or tiredness is reduced or eliminated. (see Abstract) The claimed indicator means for presenting a level indicator indicative of adjustments to be made is not specifically taught by Miller. Miller however discloses a display device, where pop-up or pop-down type windows or GUI for parameter adjustment may be utilized, as is well-known in the art. And Wagner discloses an anti-eye strain apparatus which automatically adjusts the brightness of a display, comprising an auto brightness control feature within the Graphical Control Interface (GUI) as shown in Fig. 7, where "the user then set the brightness of display to the desired general level of brightness. (see also column 9, lines 11-15, and column 7, lines 42-63) The auto brightness control display indicates the level of brightness. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system of Miller et al. by providing the automatic brightness control indicator taught by Wagner, in order to make it easier for the viewer to control or adjust the parameters of the display according to the desired level. Thus, the argument that there is no suggestion to combine is unpersuasive.

c) Wagner discloses that in Fig. 7 which includes the sliding bar, the Auto brightness control is "selected by a user by a keyboard or mouse. The user then sets the brightness of the display to the desired general level of brightness. In this example, the general brightness level has been set to about 50 percent." (col. 9, lines 9-16) Because the sliding bar as shown in fig. 7 is set approximately in the middle as shown in the Figure 7, thus 50 percent. Therefore, the argument that Wagner "never mentions that the sliding bar is used to indicate how the brightness level of an image has been altered or adjusted" is not persuasive because Figure 7 clearly shows or discloses as such. Examiner submits and emphasizes that figure 7 is part of the disclosure.

d) First of all, Examiner would like to repeat again that the Applicant is arguing something that is not found in both independent claims, i.e., Claims 1 and 5 do not recite "using user inputs". Secondly, Applicant may not show non-obviousness by attacking references individually where, as here, rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981) Nevertheless, Wagner teaches that "The brightness of the display may be adjusted electronically, suggesting usage of some sort of a sensor to sense ambient conditions. But, of course, Wagner not only mentions but specifically and explicitly teaches that "It will be understood that these factors--the general level of brightness, range, time and pattern--may be set in a number of ways. For example, they may be preset, dependent upon ambient lighting conditions, selected by the central processing unit or selected by the user," (col. 7, lines 47-51) and further that "The brightness control 86 is used to control the brightness of a display 88. It will be understood that this manual potentiometer 80, for example, may be manually set by the user and adjusted according to the ambient lighting conditions." (col. 12, lines 43-49) Therefore, the argument that "Wagner does not mention using current ambient factors" is unpersuasive.